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10/026,215	12/19/2001	Anthony Elliott	18872.0114	8507

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Ranjana Kadle
Hodgson Russ LLP
Suite 2000
One M&T Plaza
Buffalo, NY 14203

EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/026,215

Applicant(s)

ELLIOTT, ANTHONY

Examiner

Aaron M Dunwoody

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20, 23-36 and 38-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 42 is/are allowed.
- 6) ☒ Claim(s) 20, 23-36, 38-41 and 43-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings were received on 11/12/2003. These drawings are approved.

Claim Objections

Claims 30 and 48 are objected to because of the following informalities:

Claim 30 recites, "the end that receives the nut the bolt comprises"; however, it is not clear to the Examiner what this means. Appropriate correction is required.

Regarding claim 48, the phrase "and/or" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and/or"), thereby rendering the scope of the claim(s) unascertainable.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 23-25, 27-30, 34-36, 38, 41, 47 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 649916, Dietrich.

In regards to claim 20, Dietrich discloses a pipe clamp comprising at least first and second parts (A, C) having a pivotal connection to allow the at least first and second parts to be opened for receiving a pipe, and a nut (B¹) and bolt (B) which can be tightened to secure the clamp on the pipe, one of the parts having ends and having a bifurcation (c) at one end through which the bolt passes, wherein the end mates directly in contact with the nut when it is tightened on the bolt so as to limit opening of the bifurcation.

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In regards to claim 23, Dietrich discloses a clamp, for clamping pipework, comprising:

- a first clamp member (A);
- a second clamp member (C);
- a bolt; and
- a nut

such that when the first clamp member is attached to the second clamp member and the bolt is attached to the first clamp member the nut can be tightened onto the bolt so as to clamp pipework between the first and second clamp members,

wherein the second clamp member comprises an aperture defined by prongs and into which the bolt can be moved laterally, the nut mates directly with a seat (c¹) integrally formed on the second clamp member and tightening of the nut onto the second clamp member prevents splaying of the prongs.

In regards to claim 24, Dietrich discloses tightening of the nut onto the second clamp member exerting an inward force on the prongs, towards the bolt.

In regards to claim 25, Dietrich discloses the second clamp member comprising an open-sided, U-shaped aperture defined by prongs and in use the bolt can be moved laterally in and out of the aperture and the nut is tightened axially onto the bolt.

In regards to claim 27, Dietrich discloses the bolt being separate from the first clamp member and comprising a retention means (b) and the first clamp member comprising an aperture through which the bolt passes such that when the bolt has been

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passed through the aperture removal of the bolt from the first clamp member is resisted by the retention means.

In regards to claim 28, Dietrich discloses the retention means comprising a resilient, angled projection so the bolt can easily be inserted into the aperture but is more difficult to remove once inserted.

In regards to claim 29, Dietrich discloses the bolt comprising a T-shaped end portion to engage against the first clamp member in use and to act as a pivot for pivotal movement of the bolt relative to the first clamp member.

In regards to claim 30, Dietrich discloses at the end that receiving the nut or the bolt comprising a non-threaded portion (the chamfer at the end of the bolt) to facilitate location of the nut onto the bolt.

In regards to claim 34, Dietrich discloses projections extend from the prongs and prevent overclosing of the clamp.

In regards to claim 35, Dietrich discloses a nut and seat assembly for a clamp, comprising

a nut to be tightened onto a bolt; and

a clamp member having a seat integrally formed thereon for the nut and an aperture defined by prongs so the bolt can be inserted laterally into the aperture and the nut can be tightened axially against the seat;

wherein the nut and seat mate directly and tightening of the nut onto the seat prevents outward movement of the prongs away from the bolt.

In regards to claim 36, Dietrich discloses tightening of the nut onto the seat pushes the prongs of the clamp member together and can tighten the prongs around the bolt.

In regards to claim 38, Dietrich discloses prongs of the clamp member form a U-shaped aperture such that in use a bolt can be inserted laterally into the open end of the aperture and the seat is formed from the sides of the prongs.

In regards to claim 41, Dietrich discloses projections extending from the prongs and prevent overclosing of the clamp.

In regards to claim 47, Dietrich discloses a pipe clamp comprising at least first and second parts having a pivotal connection to allow the at least first and second parts to be opened for receiving a pipe, and a nut and bolt which can be tightened to secure the clamp on the pipe, one of the parts having ends and having a bifurcation at one end through which the bolt passes, wherein the end mates directly with the nut when it is tightened on the bolt so as to limit opening of the bifurcation, and wherein a concave recess provided on an inside surface of the nut cooperates with a convex portion or portions on the end of the part through which the bolt passes so that tightening the bolt urges the bifurcation together.

In regards to claim 48, Dietrich discloses a nut and seat assembly for a clamp, comprising

a nut to be tightened onto a bolt; and

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a clamp member having a seat for the nut and an aperture defined by prongs so the bolt can be inserted laterally into the aperture and the nut can be tightened axially against the seat;

wherein the nut and seat mate directly and tightening of the nut onto the seat prevents outward movement of the prongs away from the bolt; and

wherein the nut comprises a mating surface at or towards a lower edge of the nut which co-operates with a corresponding mating surface on the seat so that as the nut is tightened onto the bolt action of the surfaces on each other prevents outward movement of the prongs or pushes the prongs together and tightens them around the bolt.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 23-31, 34-36, 38, 41, 44 and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 5873611, Munley et al.

In regards to claim 23, Munley et al discloses a clamp, for clamping pipework, comprising a first clamp member (22); a second clamp member (20); a bolt (100); and a nut (104) such that when the first clamp member is attached to the second clamp member and the bolt is attached to the first clamp member the nut can be tightened onto the bolt so as to clamp pipework between the first and second clamp members, wherein the second clamp member comprises an aperture defined by prongs (60, 62) and into which the bolt can be moved laterally, the nut mates directly with a seat (104) integrally formed on the second clamp member and tightening of the nut onto the second clamp member prevents splaying of the prongs.

In regards to claim 24, Munley et al discloses tightening of the nut onto the second clamp member exerts an inward force on the prongs, towards the bolt.

In regards to claim 25, Munley et al discloses the second clamp member comprising an open-sided, U-shaped aperture defined by prongs and in use the bolt can be moved laterally in and out of the aperture and the nut is tightened axially onto the bolt.

In regards to claim 26, Munley et al discloses the first and second clamp members being pivotally connected at respective first ends.

In regards to claim 27, Munley et al discloses the bolt being separate from the first clamp member and comprising a retention means and the first clamp member comprises an aperture through which the bolt passes such that when the bolt has been passed through the aperture removal of the bolt from the first clamp member being resisted by the retention means.

In regards to claim 28, Munley et al discloses the retention means comprising a resilient, angled projection so the bolt can easily be inserted into the aperture but is more difficult to remove once inserted.

In regards to claim 29, Munley et al discloses the bolt comprising a T-shaped end portion to engage against the first clamp member in use and to act as a pivot for pivotal movement of the bolt relative to the first clamp member.

In regards to claim 30, Munley et al the end that receives the nut the bolt comprising a non-threaded portion (the tapered portion) to facilitate location of the nut onto the bolt.

In regards to claim 31, Munley et al discloses the first and second clamp members being separate but pivotally engaged to each other and wherein one of the first and second members comprises a resilient retention means and the other comprises a surface against which acts the retention means, and wherein it is easy to snap the first and second members into pivotal engagement but more difficult to disengage the first and second clamp members thereafter.

In regards to claim 34, Munley et al discloses projections (63') extending from the prongs and prevent overclosing of the clamp.

In regards to claim 35, Munley et al discloses a nut and seat assembly for a clamp, comprising a nut to be tightened onto a bolt; and a clamp member having a seat integrally formed thereon for the nut and an aperture defined by prongs so the bolt can be inserted laterally into the aperture and the nut can be tightened axially against the

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seat; wherein the nut and seat mate directly and tightening of the nut onto the seat prevents outward movement of the prongs away from the bolt.

In regards to claim 36, Munley et al discloses tightening of the nut onto the seat pushes the prongs of the clamp member together and can tighten the prongs around the bolt.

In regards to claim 38, Munley et al discloses prongs of the clamp member forming a U-shaped aperture such that in use a bolt can be inserted laterally into the open end of the aperture and the seat is formed from the sides of the prongs.

In regards to claim 41, Munley et al discloses projections extend from the prongs and prevent overclosing of the clamp.

In regards to claim 44, Munley et al discloses a nut and seat assembly comprising a nut to be tightened onto a bolt; and a clamp member having a seat integrally formed thereon for the nut and an aperture defined by prongs so the bolt can be inserted laterally into the aperture and the nut can be tightened axially against the seat; wherein tightening of the nut onto the seat prevents outward movement of the prongs away from the bolt.

In regards to claim 46, Munley discloses a method of securing a clamp around a pipe, comprising:

locating an upper clamp member over the pipe; locating a lower clamp member under the pipe, respective first ends of the clamp members being connected, optionally via a pivot, and a bolt being attached to the second end of one of the clamp members; and

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tightening a nut onto the bolt so the nut engages with a seat on the second end of the other clamp member so as to close the clamp;

wherein the seat comprises prongs forming an opensided aperture for the bolt and

tightening the nut prevents outward movement of the prongs away from the bolt; and

tightening the nut onto the bolt so as to move the prongs inwards and tighten the prongs around the bolt.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32, 33, 39, 40 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Munley et al.

In regards to claims 32, 33, 39, 40 and 43, Munley et al discloses the claimed invention except for the clamp being glass-filled nylon, plastics material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the clamp with glass-filled nylon, plastics material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

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Claims 32, 33, 39, 40 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietrich.

In regards to claims 32, 33, 39, 40 and 43-45, Dietrich discloses the claimed invention except for the clamp being glass-filled nylon, plastics material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the clamp with glass-filled nylon, plastics material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

Claim 42 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose a clamp wherein the first and second clamp members pivotally engaged directly to each other in a snap-fit relation.

Response to Arguments

The Examiner acknowledges the Applicant conceding that it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the clamp with glass-filled nylon, plastics material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice

Applicant's arguments with respect to claims 20 and 45 have been considered but are moot in view of the new ground(s) of rejection.

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Applicant argues that neither of the retainer elements 20 or 22 in Munley et al has a seat integrally formed thereon in the manner claimed by applicant. The Examiner disagrees. It has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973). Therefore, Munley et al meets the claimed limitation.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because it illustrates the inventive concepts of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is (703) 306-3436. The examiner can normally be reached on Monday - Friday between 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

.amd


Lynne H. Browne
Supervisory Patent Examiner
Technology Center 3670